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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,009	10/14/2003	Michael D. Gerdes	HE 8698US	4282
1688	7590	07/12/2005	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERS COURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			REIS, TRAVIS M	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/685,009	Applicant(s) GERDES ET AL.	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 20-35, 37, 39-43 and 60-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 20-35, 37, 39-43 and 60-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 20-28, & 61-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (U.S. Patent 3888128).

Mitchell discloses a system, and method of using an adjustable mounting flange (10) for mounting vehicle wheels (19) each having different lug patterns on the shaft of a balancing machine (15) which comprises a flange plate (34) having a central bore extending from a front face to a rear face (Figure 2); an adjusting plate (35) disposed adjacent said rear face and coupled to said flange plate for coaxial rotational movement relative to said flange plate (Figure 4); a plurality of slots passing through said flange plate (37); a plurality of slots passing through said adjusting plate (38); a plurality of mounting pins (30), each of said plurality of mounting pins including a guide pin (28) adapted for engagement with said flange plate and a contact tip (31) adapted for engagement with the plurality of wheel lug holes, in an annular pattern (Figure 4) with identifying indicia (48) being associated with each of said slots; and wherein said plurality of slots in said flange plate and said plurality of slots in said adjusting plate cooperatively define one or more sets of unobstructed passages through said adjustable mounting flange (Figure 4); and wherein each of said unobstructed passages in a set of unobstructed passages is disposed at a common radial distance from an axis of said central bore (Figure 5), said common radial distance associated with a rotational position of said adjusting plate; wherein said plurality of slots passing through said flange plate include at least one set of circumferentially equidistant spaced slots, said slots in said set having a

common skewed configuration (Figure 6); wherein a range of rotational movement of said adjusting plate about said central axis corresponds with a range of radial movement of each of said unobstructed passages in said set of unobstructed passages between an inner radial position and an outer radial position (Figure 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-7, 29-35, 37, 39-43, & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell in view of Applicant's admission as stated in pages 15 & 16 of Applicant's amendment filed 11/8/04.

Mitchell discloses all of the instant claimed invention as stated above in the rejection of claims 1, 3, 20-28, & 61-64, but does not disclose a plurality of adjacent discrete detent positions configured to receive said mounting pins. However, in view of Applicant's Admission that there is no distinct patentable difference in the configuration or features between claims 1, 3, 20-28, & 61-64 and claims 4-7, 29-35, 37, 39-43, & 60, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add detents to the slots disclosed by Mitchell since these detents have been admitted by applicant to be obvious variants, i.e. not patentably distinct from the slots of Species I, such as the slots disclosed by Mitchell.

Allowable Subject Matter

5. Claims 2 & 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or clearly suggest a system for mounting vehicle wheels each having an axial pilot hole and a plurality of radial spaced lug holes disposed in one of a plurality of symmetric and axially centered configurations, about a spindle shaft of a vehicle wheel balancer comprising one double tapered centering cone having a first tapered surface increasing in diameter from a first end, and a second tapered surface increasing in diameter from a second end axially opposite said first end, in combination with the remaining limitations in the claims.

Response to Arguments

7. With reference to claims 1 & 20, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a single mounting flange assembly & a single adjustable mounting flange) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. With reference to claims 4-7, 29-35, 37, 39-43, & 60, in response to applicant's arguments that Mitchell does not disclose the limitation of these claims; these arguments have been fully considered but they are not persuasive since these claims are no difference than the claim limitations of 1, 3, 20-28, & 61-64, by Applicant's Admission, and hence are met by Mitchell, as detailed above in paragraph 4.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859

tmr
July 11, 2005



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

CHRISTOPHER W. FULTON
PRIMARY EXAMINER